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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

RICOH COMPANY, LTD.,
Plaintiff,

VS

vs.

AEROFLEX INCORPORATED, et al.,
Defendants

SYNOPSYS, INC.

Plaintiff,

VS

RICOH COMPANY, LTD.,
Defendant.

JOURNAL OF CLIMATE

CASE NO. C-03-2289-MJJ (EMC)

) CASE NO. C-03-4669-MJL(EMC)

-) RICOH'S OPPOSITION TO SYNOPSY'S,
INC.'S AND DEFENDANTS' MOTION
TO SHORTEN TIME FOR HEARING
ON MOTION REQUESTING EQUAL
PRESENTATION TIME AT TUTORIAL

) PRESENTATION TIME AT 101

) = $\overline{P}(\overline{P})$ and $\overline{P}(\overline{P}) = \overline{P}$.

) Date: To Be Determined
Time: To Be Determined

) Courtroom: 11

1 Defendants Aeroflex Incorporated et al. and Synopsys, Inc. (collectively
2 Defendants) have requested this Court to shorten the time for briefing and a hearing
3 on their motion titled "Motion Requesting Equal Presentation Time At Tutorial".
4 Ricoh Company, Ltd. (Ricoh) does not object to shortening the time but respectfully
5 submits that the dates proposed by Defendants are unreasonable and should be
6 modified.

7 A tutorial is currently scheduled for October 20, 2004. It has been apparent
8 since the hearing with this Court on July 14, 2004¹ that Defendants intended to make
9 a presentation at the tutorial under any circumstances. The interactions between the
10 parties will be discussed in connection with the motion itself but in summary, the
11 current situation is that only two (2) individuals were ever proposed to be a "neutral
12 expert" and investigation has shown that both of these individuals were sufficiently
13 associated with one or another of the parties to take them out of that category. Ricoh
14 has attempted to prepare the tutorial to be as neutral and unbiased as possible. It
15 presented Defendants with a highly detailed description of what it intended to
16 present at the tutorial² while Defendants presented Ricoh with a bare bones list of
17 bullet points³ of the information they intended to present. On numerous occasions,
18 in writing and during telephone conversations, Ricoh asked Defendants to identify
19 what aspects of Ricoh's proposed presentation was allegedly biased and/or
20 constituted claim construction assertions but Defendants never responded, instead
21 choosing to explain their contentions for the very first time in the motion filed late

22
23 ¹ In the hearing, Defendant argued for the right to present extrinsic testimony during the Markman
24 hearing.

25 ² Ricoh's outline was annotated with citations to the specifications of the '432 patent.

³ Although the parties had agreed to provide citations to the specification of the '432 patent to support
the outline, Defendants provided no such citations. Ricoh has repeatedly requested the information
from the Defendants but Defendants have failed to provide it.

1 last night. Ricoh has offered to identify all of the extrinsic evidence (which this Court
2 has said would not be permitted) contained in Defendants' outline but Defendants
3 have refused to even consider accepting and then discussing such information.
4 Ricoh also proposed that each party identify the other's items that were acceptable,
5 were acceptable with revision, and were unacceptable. Defendants also rejected this
6 offer. Instead, Defendants have demanded that Ricoh agree to give the Defendants a
7 100% veto right over any information that Ricoh wanted to include in the
8 presentation being made by Ricoh. Defendants have thus refused to cooperate with
9 Ricoh in preparing the tutorial.

10 It will be Ricoh's position that, *inter alia*, Defendants have failed to hold a
11 proper meet and confer about the tutorial, as set forth, for instance, in Ricoh's letter
12 of October 4, 2004 (submitted herewith but omitted from Defendants' submission).

13 With respect to the request to shorten the time, Defendants obviously began
14 preparing the main motion more than one week ago. Thus, on September 28, 2004,
15 Defendants told Ricoh "we will seek relief from the Court" (letter submitted as
16 Mavrakakis motion Exhibit BB, page 2). On October 1, 2004, Defendants stated "we
17 will seek an order from the Court that precludes Ricoh from presenting expert
18 testimony on claim construction at the tutorial and that allows Synopsys and
19 Defendants equal time on October 20, 2004 to make their own presentation at the
20 tutorial" (letter submitted as Mavrakakis motion Exhibit DD). Nevertheless,
21 Defendants delayed filing their motion until very late yesterday at 10:20 P.M. (local
22 time). Defendant's papers were not transmitted to Ricoh's counsel on the East Coast
23 until after 2:00 A.M. (East Coast time) on October 6, 2004.

Given that Defendants delayed in making this motion for more than one week, to demand Ricoh respond within two (2) days is respectfully submitted to be unreasonable. Ricoh submits that it should be allowed equal time to respond. Ricoh respectfully submits that its opposition brief to the motion should, in light of the fact that Monday is a Federal holiday, be due on October 13, 2004 (four business days from now) with the hearing thereafter at the end of the week. Since Defendants have waived their right to a reply brief, receipt of Ricoh's opposition a day or two before the hearing does not prejudice Defendants.

Dated: October 6, 2004

Respectfully submitted,
Ricoh Company, Ltd.

By: /s/ Kenneth Brothers

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